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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,151	06/13/2001	Anders Stenberg	010315-104	4114

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

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06/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/879,151	Applicant(s) STENBERG, ANDERS	
	Examiner Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-11,19-25 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-11,19-25 and 44-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9 April 2009 have been fully considered but they are not persuasive.
2. In response to the applicant's argument that the absence of a novel, unobvious functional relationship between the absorbent article and the claimed indicia, it is noted that the indicia printed on the article does not provide any additional function to the article that the article of Cammarota lacks. In the present case, the claimed absorbent article and the article disclosed by Cammarota differ only in the substance of the material printed on the articles. The article of Cammarota comprises all the structural limitations of the present claims, and provides the same function as the claimed article (i.e. a wetness-indicating diaper). Therefore, since the printed matter of the indicia does not provide the claimed article with any additional functionality, no new and unobvious functional relationship between the indicia and the article exists.
3. In response to the applicant's argument that the strip part provides the function of facilitating identification of the location of the wetness indicator, it is noted that identification of the location of the wetness indicator is not a function of the article itself, but rather is a function of the method of using the article.
4. The article disclosed by Cammarota comprises a central portion that can be defined as a strip part, the strip part comprising colored graphics that are distinguished from the remainder of the backsheet by their color. The graphics provide a border for the region of the backsheet on which the wetness indicators are located, as shown in

Art Unit: 3761

figure 2, and a user of the article could find the wetness indicators on the backsheet because their location is bordered by the printed graphics. Therefore, the central portion of the backsheet of Cammarota is considered to be the strip part, and the difference in color between the printed graphics and the remainder of the backsheet indicates to a user where to look for the wetness indicating graphics.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 5-11, 19-25, and 46-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Cammarota et al. (6,307,119).

7. With respect to claims 1-2, 7, 10-11, 21, and 24-25, Cammarota discloses an absorbent article comprising a liquid pervious topsheet 42, a liquid impervious backsheet 40, and an absorbent body 44. The backsheet 40 comprises a strip part 30 and a remaining part 34, as shown in figure 1. The strip part 30 comprises graphics having a color that is different from the color of the remaining part 34, as shown in figure 1. The strip part comprises the portion having colored graphics printed thereon, which is disclosed in column 11, lines 10-13, as being 6 cm. The strip part 30 may comprise a separate strip of material 114 of the backsheet 40, as shown in figure 9B. A wetness

Art Unit: 3761

indicator 66 is arranged inside of the backsheet 40 in a pattern, as shown in figure 1 and described in column 21, lines 41-46. The wetness indicator 66 is disposed on the strip part 30, and facilitated by the strip part 30 having a different color than the remaining part 34 of the backsheet. Since the printed matter of the claimed invention does not provide a new and unobvious functional relationship between the printed matter and the article, the claimed indicia do not distinguish over the graphics of Cammarota, and the graphics of Cammarota anticipate the claimed indicia.

8. With respect to claims 5 and 19, the strip part 30 extends the entire length of the article, as shown in figure 2.

9. With respect to claims 6 and 20, the strip part 30 extends in the transverse direction of the article, which is intended to be folded in half at a part of the article that includes the strip part 30, as shown in figure 1.

10. With respect to claims 8 and 22, the article comprises printed symbols, as shown in figure 1, which indicate the product type as a wetness-indicating diaper.

11. With respect to claims 9 and 23, the article is a diaper.

12. With respect to claims 46 and 47, the wetness indicators 66 are disposed in the strip part 30 between the printed graphics having a different color than the remaining backsheet, and therefore the different color of the graphics facilitates location of the wetness indicators since they are bordered by the colored graphics.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cammarota et al. (6,307,119) in view of Miller (5,839,585).

15. Cammarota discloses all aspects of the claimed invention with the exception of the articles being packaged as a plurality of articles of at least two different sizes. Miller teaches the packaging of absorbent articles of at least two different sizes or types to provide the user with a choice of products, as disclosed in column 2, lines 17-21. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the absorbent articles of Cammarota in a package including a plurality of articles of at least two different sizes or types, as taught by Miller, to provide the user with a choice of products.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3761

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Kevin C. Sirmons/

Application/Control Number: 09/879,151

Page 7

Art Unit: 3761

Supervisory Patent Examiner, Art Unit 3767